ISSUE V.9.	Under what terms and conditions must Verizon and its data affiliate or their successors or assigns allow AT&T to purchase advanced services for resale?

Q. PLEASE SUMMARIZE YOUR TESTIMONY ON THE ISSUE OF VERIZON'S OBLIGATION TO MAKE RETAIL DSL SERVICES AVAILABLE FOR RESALE.

A. First, I will show that the Commission's *Connecticut 271 Order*[74] has resolved several key issues relating to Verizon's duty to make retail DSL services available for resale. In particular, that order rejected the arguments Verizon has raised here and held that (1) the plain language of the recent *ASCENT* decision[75] invalidates Verizon's claim that it need not make DSL available for resale unless Verizon is the underlying voice carrier; (2) that Verizon has improperly misapplied the Commission's Line sharing rules and (3) that Verizon may not hide behind the corporate shell of its (soon to be dissolved) advanced data services affiliate. Second, I will show that Verizon's obligation to make DSL services available for resale extends not only to carriers that resell Verizon's voice service but also to carriers that provide voice service using UNE-P.

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74 *Application of Verizon New York Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization to Provide In-Region, InterLATA Services in Connecticut*, Memorandum Opinion and Order, CC Docket No. 01-100 (rel. July 20, 2001) ("*Connecticut 271 Order*").

75 *Association of Communications Enterprises v. FCC*, 235 F.3d 662 (D.C. Cir. 2001) ("*ASCENT*").

Q. WHAT CONTRACT LANGUAGE HAS AT&T PROPOSED REGARDING THE RESALE OF DSL SERVICES?

A. Paragraph 12.1 of AT&T's proposed contract identifies a general obligation that Verizon will permit resale of "Telecommunications Services that it provides to its non-carrier customers." That section also adds clarifying language stating that:

> AT&T may purchase for resale any Advanced Services, including but not limited to any digital subscriber line service, offered by Verizon, or by Verizon affiliates, subsidiaries or other entities subject to § 251(c) of the Telecommunication Act of 1996, without any unreasonable or discriminatory limitation including, but not limited to limitations or restrictions that would require AT&T also to purchase other services from Verizon.

Q. DOES VERIZON OBJECT TO AT&T'S PROPOSED LANGUAGE?

A. Yes, although these objections were made prior to the release of the *Connecticut 271 Order* discussed above. Verizon objected to AT&T's proposed language on three grounds.[76] First, it asserted that the advanced services being addressed are offered by a different company. Second, it states that its data affiliate VADI (or VAD-VA) recently revised its tariffs to provide a resale discount to advanced services it offers to retail customers. Third, it claims that the issue of resale of advanced services at wholesale prices is beyond the scope of this arbitration.

Q. ARE ANY OF VERIZON'S ARGUMENTS VALID?

A. No, the Commission's decision in the *Connecticut 271 Order* and Verizon's own actions demonstrate that they are not.

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76 SSUI at 144.

Q. HOW DID THE CONNECTICUT 271 ORDER REJECT VERIZON'S ARGUMENTS HERE?

A. First, the *Connecticut 271 Order* flatly rejects Verizon's assertion that DSL services are "offered by a separate company." As the Commission held,

> The ASCENT decision made clear that Verizon's resale obligations extend to VADI, whether it continues to exist as a separate entity or whether it is integrated into Verizon, and regardless of the way Verizon structures VADI's access to the high frequency portion of the loop. Accordingly, we conclude that to the extent Verizon attempts to justify a restriction on resale of DSL turns on the existence of VADI as a separate corporate entity (or even a separate division), it is not consistent with the ASCENT decision.[77]

Moreover, the Commission rejected Verizon's claim "that it is not required to offer resale of DSL unless Verizon provides the underlying voice service on the line involved . . . based on the plain language of section 251(c)(4)."[78] The Commission also emphasized that "Verizon's policy of limiting resale of DSL services to situations where Verizon is the voice provider *severely hinders the ability of other carriers to compete*," and that permitting Verizon, but not its competitors, to provide both voice and DSL services to end users "is clearly contrary to the pro-competitive Congressional intent underlying

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77 *Connecticut 271 Order* ¶ 32.

78 The Commission also rejected Verizon's claim that "there is no DSL for VADI to resell when a competitive LEC provides voice service over the line involved," because it is "based on a misapplication of [the] Commission's line sharing rules. Line sharing is not a retail service; it is a UNE provided under section 251(c)(3). Therefore, the restriction on the line sharing UNE is inapplicable to Verizon's obligations relating to retail services." *Id.* ¶ 31.

section 251(c)(4)."[79] Accordingly, any legal objections Verizon raised concerning its duty to provide DSL for resale to competitors who resell its voice service have been flatly rejected.

Q. HOW HAVE VERIZON'S ACTIONS ALSO INVALIDATED ITS POSITION?

A. As the Commission is aware, Verizon has also requested that it be permitted to accelerate its right to re-absorb VADI into Verizon.[80] Given this request, Verizon cannot reasonably insist that the legal duties of VADI on this issue must be dealt with in a separate agreement. If VADI and Verizon are to be a single entity within the next few months, (which may be less time than it takes to execute a contract between Verizon Virginia and AT&T), Verizon should not be permitted to object to AT&T's request that all of its corporate obligations regarding the resale of DSL should be dealt with in a single interconnection agreement. Moreover, regardless of whether VADI (or any other Verizon entity) has addressed some of these issues in a tariff, AT&T is entitled to request (and arbitrate if necessary) appropriate contract provisions to assure that it has a contractual basis upon which to enforce Verizon's legal obligations. This is especially true because tariffs are subject to change relatively easily compared to

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79 *Id.* (emphasis added). It should also be noted that this resale requirement provides incentives for CLEC investment, because it allows voice CLECs to focus on developing their underlying voice infrastructure rather than requiring that they engage in a parallel wholesale deployment of collocation and DSL technology. It also creates opportunities for innovation by allowing carriers to invest in differentiating features and capabilities consistent with their primary business strategy while filling product/feature voids through resale.

80 *See* FCC Public Notice DA 01-1325, released May 31, 2001, *Pleading Cycle Established for Comments on Verizon's May 1st Letter Concerning Relief From Bel Atlantic/GTE Merger Conditions,* CC Docket No. 98-184.

contract terms. Thus, there is no legitimate procedural basis that precludes AT&T from arbitrating this issue here.

Q. WHAT OTHER ISSUES SHOULD THE COMMISSION CONSIDER IN THIS CONTEXT?

A. Although the *Connecticut 271 Order* did not resolve Verizon's legal obligation under the *ASCENT* decision to permit resale of its DSL service when a CLEC uses a UNE-P or UNE-Loop architecture to provide voice service on the customer's loop, these issues are straightforward and should not stand in the way of requiring Verizon to accept contractual provisions that require it to allow resale of its DSL services in either case.

Q. WHY SHOULD VERIZON BE REQUIRED TO ALLOW RESALE OF ITS DSL SERVICES TO CARRIERS THAT PROVIDE VOICE SERVICE USING UNE-P?

A. For the simple reason that even Verizon itself admits that the physical arrangements that support UNE-P are *identical* to those that support resale. Verizon's July 12, 2001 response to AT&T's Data Request 3-30 correctly states:

> There are *no operational differences* between a retail service and a UNE-P combination service, when the combination is made by Verizon Virginia. They are provisioned and maintained using the same systems. (emphasis added).

From a technical perspective, of course, resale services are the same as Verizon "retail services." Verizon has already offered to make DSL resale available to CLECs in Connecticut and Pennsylvania for CLECs that resell Verizon's voice service.[81] Thus, there is no reason, technical or otherwise, why UNE-P carriers

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81 *See Connecticut 271 Order* ¶ 29; Verizon *ex parte* letter from Dee May to Magalie Roman Salas, dated July 9, 2001, Application of Verizon Pennsylvania, Inc., et al., for

should not be permitted to resell Verizon's retail DSL services, and such a requirement should be established immediately.

In cases where a customer's line is already set up for line sharing by VADI (*i.e.*, with both voice and data service provided by a Verizon entity), VADI would already have deployed splitters in its collocation and have the UNE-loop and switch port interconnected through the splitter. For a CLEC reselling the voice service, Verizon would need to make the necessary billing changes to bill the reseller at the appropriate wholesale discount. For a CLEC using UNE-P to provide the voice service, the CLEC would assume responsibility for the loop, switch port and shared transport UNEs through a records change processed by Verizon – just as would occur with any other UNE-P migration. A "new" UNE-P/DSL resale configuration would be established in the same manner as VADI would establish a "new" line sharing configuration. In either UNE-P situation, the billing for the DSL service would have to be redirected from the retail customer to the CLEC, less the applicable resale discount, which is exactly the same work that would be needed to establish DSL resale for a reseller of Verizon's voice service. There is no need to disrupt the physical configuration of the circuit in either case.

Q. WHY SHOULD VERIZON BE REQUIRED TO ALLOW RESALE OF ITS DSL SERVICES WHEN A CLEC USES A UNE-LOOP ARCHITECTURE TO PROVIDE VOICE SERVICE?

A. For a CLEC using a UNE-Loop architecture (including an unbundled local loop obtained from Verizon and its own switch) to provide voice service, the addition of Verizon's DSL service requires only that the "split" high frequency signals be routed to the ILEC's data switch using ordinary cross-connects. This can be accomplished by using the same cross-connection techniques used to provide line sharing.[82]

If AT&T provides a splitter in its own collocation in the customer's serving central office, Verizon would connect the loop outside plant to the facility connecting to the splitter input port, just as in line sharing. In this case however, instead of using cross-connects to send the low frequency signals back to Verizon's circuit switch and the high frequency signals to its own data network, the opposite would occur. That is, the CLEC will connect the low frequency output port of the splitter to its own local switching functionality (including use of a backhaul facility out of the Verizon office), and it will direct the Verizon to connect the facility associated with the high frequency signal output port of its splitter to the Verizon DSLAM and data switching network.

In all regards, the cross-connections required and the necessary customer disruption that occurs when the configuration is established are virtually

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82 Verizon would, of course, be entitled to assess the same cost-based non-recurring charges for these cross-connects as for the cross-connects that support line sharing.

indistinguishable to those involved in line sharing.[83] Similarly, assuming that Verizon is required to provide access to the entire loop where it deploys next generation digital loop architecture. Implementing this service arrangement is a simple matter of establishing cross-connects to the appropriate CLEC voice switch and to the DSLAM and data network of the Verizon entity providing the DSL service.

Q. ARE THERE ANY OTHER ISSUES THAT SHOULD BE ADDRESSED IN THIS REGARD?

A. The only question that remains is the charges that AT&T may assess to the Verizon data entity when AT&T uses an unbundled loop to provide service using either a UNE-P or UNE-L architecture and Verizon assesses a charge for the HFS. Verizon should not be permitted to recover its loop costs more than once. Therefore, if AT&T pays Verizon the full cost of the loop UNE (as part of the UNE-P configuration), it should be permitted to charge the Verizon data entity the same amount that such entity would otherwise pay Verizon for its use of the HFS of that loop. This keeps all parties whole and places Verizon in the same position it would be in if it (alone or in conjunction with its affiliate) provided both voice and data services to the end user over the loop.

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83 Alternatively, if Verizon provides access to a split loop using its own splitter, then the low frequency signal output port of the Verizon-provided splitter would be connected to AT&T's collocation (and from there by AT&T to its voice switch) and the data signal output port of that same splitter would be connected to the Verizon DSLAM and then to its data switching network. Regardless of whether or not AT&T elects to provide the switching functionality for the low frequency spectrum transmission, a disruption of the customer's operating voice service is involved, but should be indistinguishable in all respects from what occurs when Verizon provides a splitter and implements line sharing for itself or its data affiliate.

The Commission should also prohibit Verizon from engaging in unreasonable and discriminatory practices that inhibit customers from purchasing resold DSL services. In particular, when a customer is served by a line sharing arrangement in which Verizon provides both the voice and DSL service, a UNE-P CLEC that is willing to resell a Verizon retail DSL service (regardless of the Verizon entity offering such service) should be able to transfer the customer seamlessly to a UNE-P/DSL resale arrangement, and Verizon should be prohibited from withdrawing or otherwise disrupting the retail customer's service during such a migration.

ISSUE VII-10	Should Verizon be permitted sufficient time to provision to AT&T loops provided via Integrated Digital Loop Carrier?

Q. WHAT IS WRONG WITH VERIZON'S SUGGESTION THAT AT&T USE THE "BONA FIDE REQUEST' PROCESS TO PROVISION IDLC LOOPS?

A. Verizon's suggestion that AT&T must resort to the Network Element Bona Fide Request ("BFR") process to obtain a loop that is served using Integrated Digital Loop Carrier ("IDLC") (and for which no spare copper facilities are available) is unacceptable. The BFR process is slow, cumbersome and expensive for AT&T. The BFR process is designed essentially for the provision of UNEs where one-of-a-kind work is involved or infrequent adjustment to existing routine processes is needed—in other words, where circumstances are out of the ordinary. However, the provisioning of loops using IDLC is neither new nor unusual in Verizon's network. It is highly likely that much more than a trivial proportion of the Verizon loops are currently served by IDLC, that is, loops where one end of the

multiplexing function is integrated into the local switch upon which the loop terminates.

Another problem with the BFR process that Verizon seeks to impose is that it is entirely open ended with respect to both time commitments and costs. Certainty is required for AT&T to develop products to serve customers that use integrated digital loop carrier. AT&T should be able to know when it places an order for UNE-L what the provisioning interval will be, so that AT&T can confidently commit to its customers. Of course, this should not result in a "least common denominator" solution where the absolutely longest interval is always quoted. Verizon cannot be permitted to further leverage it already substantial competitive advantage of having loops integrated with it switches so that virtually instantaneous provisioning may occur.

Q. PLEASE PROVIDE SOME EXAMPLES OF THE DELAYS THAT YOU DISCUSS ABOVE.

A. Verizon's suggested process creates deep uncertainty and substantial delay for AT&T and AT&T's customers. First, under Verizon's loop provisioning scenario AT&T will not know until three business days after the order is placed whether the loop can actually be provisioned in the ordinary course of business, under standard provisioning intervals. This could be as much as five calendar days if a weekend intervenes. That means that AT&T is essentially unable to make any commitment to its customer about when service will be implemented for at least 3-5 calendar days. Second, if the ordered loop is IDLC and no spare copper is available, AT&T is thrown into the open-ended BFR process, in which case there is no way to know when, if ever, the loop will be provisioned. Verizon

specifically demands that standard provisioning intervals "shall not apply." At that point the customer might well be inclined to give up on AT&T and order its services from Verizon – which, if the loop is on IDLC, could likely have service up and working while the customer was still on the line with Verizon's sales representative.

Q. WHAT IS AT&T'S PROPOSED SOLUTION TO THE PROVISIONING OF IDLC LOOPS?

A. The very presence of the technology is a barrier to a CLEC seeking to serve customers by using UNE-L. Consequently, Verizon should have in place a standardized process to quickly, reliably and inexpensively address AT&T's order for a loop where that loop is currently provisioned using IDLC and where no spare copper facilities are available. Verizon's loop qualifications systems are, or at least should be, capable of identifying such loops, so that Verizon may rely upon its information in returning a Firm Order Confirmation ("FOC") to AT&T. The standardized process that should be – but apparently is not – in place should identify such loops in the loop qualification process that precedes a FOC. Verizon should not be returning a FOC for a loop served by IDLC only to subsequently unilaterally re-start the provisioning clock with an interval of unknown but certainly much longer length, simply because Verizon subsequently "found" that no copper was available or that it was unwilling to re-arrange the loop to UDLC.

ISSUE III.8	Is Verizon obligated to provide access to UNEs and UNE combinations (such as enhanced extended links and sub-loops) at any technically feasible point on its network, not limited to points at which AT&T collocates on Verizon's premises?

ISSUE III.11	How should Verizon provide full and non-discriminatory access to all subloop elements at any technically feasible points in order to be consistent with the UNE Remand Order?
	A. How is the sub-loop defined?
	B. Must Verizon make a reasonable set of "standardized" subloop elements available?
	C. Must Verizon make an on-premise wiring subloop element available as a routine manner wherever the ILEC owns or controls the on-premises wiring?
	D. Must Verizon define general terms and conditions surrounding access to both the feeder and the distribution subloop elements?

Q. WHAT ISSUES ARE YOU ADDRESSING IN THIS SECTION?

A. I am addressing Issues III-11 and III-8, listed above. I will show how AT&T's proposed interconnection agreement provisions, particularly those involving access to unbundled subloops, reasonably and accurately put into practice recent Commission actions intended to assure that competitive telecommunications carriers obtain nondiscriminatory access to customers in Multiple Tenant Environments ("MTEs"). AT&T has properly sought the type of efficient and practical access that is necessary to serve customers located in MTEs situated within the operating territory of Verizon in Virginia. In addition, I will also identify aspects of the Verizon contract language that impose costly and restrictive terms on MTE access.

In the course of my testimony I will link the terms of the AT&T interconnection agreement to market needs and to show consistency between those terms and recent action taken by the Commission to pry open the ILEC stranglehold on MTEs so as to afford competitors non-discriminatory access. Moreover, I will identify the differences between Verizon's positions and those of AT&T to show that by adopting Verizon's language, which is in some cases vague and in others overly restrictive, the Commission would provide Verizon the means to severely inhibit, if not halt altogether, reasonable facilities-based competition for customers in MTEs.

Q. WHY ARE MTEs IMPORTANT TO THE DEVELOPMENT OF FACILITIES-BASED COMPETITION?

A. Providing telephone service is capital intensive and therefore involves high fixed costs. While an incumbent LEC has made, and in many instances has recovered and even over-recovered its investment, the same is not true for new market entrants. Furthermore, because a new market entrant does not have a pre-existing and large base of customers already paying for service, it does not have the cash flow to fund investments essential to facility-based market entry. Instead, a new entrant must raise capital through other means such as borrowing or issuing new stock – at present, a particularly daunting undertaking given the financial market's uncertainty with respect to the future of CLECs. Regardless of the method of funding investment, the competitor must generate a cash flow to pay interest charges/dividend and/or to permit further growth necessary to meet investor expectations. Accordingly, a new entrant pursuing a facilities-based market entry will generally seek niches that permit plant and equipment to be deployed in a

manner that quickly provides competitive economies of scale while still having the potential to quickly generate cash. Customers located in MTEs represent one such opportunity.

Q. WHAT DO FACILITIES-BASED COMPETITORS NEED IN ORDER TO GET REASONABLE ACCESS TO MTES?

A. One particularly critical component is reasonable access to on-premises wiring. On-premises wiring is the physical connectivity that permits facilities-based competitors to provide service to customers located in MTEs. Typically this wiring will run from a cross-connection device in the basement of a high-rise or multi-storied building, to individual floors where a second cross-connection device may be located to connect the wiring from the basement (riser) to wiring to individual units on each floor (laterals). Similarly, in garden or campus style MTEs, the on-premises wiring may run from external pedestals (or equivalent cross-connection devices) close to the property line to individual buildings and possibly individual units within those buildings.

Q. WHY IS CLEC ACCESS TO MTES IMPORTANT FOR VIRGINIA CONSUMERS?

A. MTEs represent a unique market opportunity for the establishment of facilities based competition. Verizon must not be permitted to insert inefficient and/or unnecessary terms into interconnection agreements and thereby raise the cost of and/or slow access to MTEs in Virginia. Particularly in a state where the network demarcation is intended to be at the Minimum Point of Entry (MPOE), Verizon should not be permitted to be the self-appointed gatekeeper for MTE access. Were that outcome to result, Verizon would have both the opportunity and the motivation to undermine even the nascent competition that has begun to emerge,

thereby further reducing the prospects of competitive services for Virginia consumers. Unreasonable and/or other discriminatory terms placed upon CLECs will ultimately cause retail customers to pay unnecessarily high rates for local telecommunications services or quite possibly deny consumers the benefits of advanced and innovative service competition.[84]

Q. WHY AND HOW ARE THE ECONOMICS OF ADDRESSING MTEs DIFFERENT FROM THOSE OF THE GENERAL TELECOMMUNICATIONS MARKET?

A. Wireline telecommunications service, at its most basic levels, employs an infrastructure of transmission facilities (loops) connecting retail customers to a telecommunications network comprised of switches and interoffice facilities that interconnect those switches. While each of these elements, in its own right, represents a sizeable investment, the transmission facilities connecting to a customer's premises are currently the most difficult for a competitor to successfully and efficiently self-deploy.[85] The local loop facilities, as provided in most instances, are dedicated to one and only one customer, and used only for a single revenue generating call at any one particular time.[86]

In the case of MTEs, the situation is somewhat different. An MTE represents a high concentration of customers in a very limited geographic footprint such that the serving carrier theoretically has the opportunity both to

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84 *See* In the Matter of Promotion of Competitive Networks in Local Telecommunications Markets, WT Docket 99-217, FCC 00-366 ("Building Access Order"), at ¶ 14.

85 *See* UNE Remand Order at ¶ 183.

86 For non-MTEs, ADSL is one notable exception. That technology permits voice communications, on a properly conditioned local loop, simultaneously with high-speed

better use loops (i.e., share the costs) and to engage in more cost-effective, focused marketing. By deploying multiplexing and other transmission functionality on the facility between the MTE and the service provider's network (i.e., the first point of switching) the investment in the facility connecting the premises to the carrier's network can be shared, thereby significantly improving the economics of the capital invested for market entry. Moreover, because the revenue opportunity is relatively sizeable and, in theory, immediately addressable, capital funding is more likely to be available, and particularly at better rates. When a carrier is also in a position to offer other non-telecommunications services, such as video entertainment and high-speed Internet access that simultaneously shares the facility with voice service, the economics are potentially even better. By focusing on a small and consolidated customer base, marketing can be more targeted and thereby more productive and cost-effective. As attractive a market as MTEs may be in theory, however, the potential will not be realized unless competitive carriers can obtain prompt, efficient and cost-effective access to retail customers in MTEs.

Q. ARE MANY CUSTOMERS LOCATED IN MTES?

A. According to the most recently published (1990) U.S. Census data, 29.8% of households nationwide are in MTEs. Currently there are about 105 million residential households in the U.S., which means that more than 30 million households are located in MTEs. The Virginia figures are only slightly different –

Internet access. ADSL services have only recently been widely offered in the market place.

according to the same census data, 29.0%, or in excess of 500,000, of the state's residential households are located in MTEs. Significantly, the MTE market is itself highly concentrated, with approximately 54% of the Virginia MTE households being located of complexes of 10 or more housing units. Thus, the customers in MTEs in Virginia are both numerous and highly concentrated. There is little doubt, therefore, that Verizon will be vigilant in guarding access to these customers.

Q. IS FACILITIES-BASED COMPETITION FOR CUSTOMERS IN MTES DEVELOPING AS EXPECTED?

A. No. Despite the fact that the MTE market appears attractive and the economics for facilities-based service to MTEs superior compared to serving other potential configurations, MTEs are not being addressed at the pace and scope expected. The Commission has noted that customers in MTEs are ripe for competition, but that competition has been slow to develop.[87] Prominent among the reasons for the slow development of competition is the fact that the ILECs have both the ability and the incentive to discriminate.[88]

Q. HAVE ILECS SLOWED COMPETITIVE ENTRY, PARTICULARLY WITH RESPECT TO MTEs?

A. Without a doubt, ILECs including Verizon, have frustrated MTE competition by using control (or the ambiguity regarding control) of facilities necessary for MTE access, including on-premise wire, to deny or impede access by competitors. Through the lengthy process of interconnection agreement negotiations, ILECs

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87 *See* Building Access Order at ¶ 23.

88 *Id.* at ¶ 14.

have also sought to impose operational procedures that largely serve only to increase their competitors' costs and/or cause needless delays. Even in jurisdictions, such as Virginia, where the network demarcation is located at the MPOE, which should make access to MTEs relatively simple, Verizon has been an obstacle. If Verizon truly neither owns nor controls on-premise wiring, once a carrier establishes a facility presence at the MTE and a retail customer elects to take service with that carrier, Verizon should play no part in the service delivery.

Q. DOES VERIZON TAKE SUCH A "HANDS OFF" APPROACH TO MTE ACCESS?

A. No. Verizon seeks to impose intrusive and limiting conditions on MTE access – conditions involving some of the very practices that the Commission has identified as abuses limiting competitive access. For example, Verizon seeks to insert its own technicians into the process of re-terminating premise wiring onto a CLEC's network although the Building Access Order found the practice unacceptable:

> The record further indicates that incumbent LECs are using their control over on-premises wiring to frustrate competitive access to multi-tenant buildings. Competitive LECs report that they have encountered difficulties with incumbents when attempting to arrange for interconnection or lease unbundled network elements. For example, competitive LECs report that incumbents may fail to timely provide non-proprietary information in their possession, *require the presence of their own technicians to supervise competitive LEC wiring*, and take unreasonable amounts of time in scheduling such visits. In addition competitive LECs contend that incumbent LECs often require network configurations, which may be disadvantageous for competitors.[89]

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89 *Id.* at 19 (Emphasis added).

Q. HOW DOES VERIZON FRUSTRATE CLEC ACCESS TO MTES?

A. Verizon seeks to sidestep the entire issue by claiming that it does not own MTE on-premises wiring.[90] Yet its data responses acknowledge that it does own or control wiring in MTEs built prior to May 1, 1986.[91] For those properties, however, it asserts that it does not maintain records identifying the MTEs or the on-premises wiring that it controls, thus making it nearly impossible for a CLEC to gain access to those properties. And in those cases where the building owner wants to move the demarcation point to the MPOE for a building constructed prior to May 1, 1986, so that a CLEC could gain access to the property, Verizon has made it very clear that it intends to charge the building owner to make the change.[92]

Moreover, in claiming that it has no ownership or control of on-premise wiring, Verizon seems to disingenuously rely on an order of the Virginia State Corporation Commission regarding tariff revisions "governing termination of its network wiring of ***three or more lines*** in multi-occupancy, multi-story buildings, malls, or campuses constructed prior to May 1, 1986."[93] As the Commission has already recognized in the consideration of the unbundling of switching, individual residential customers rarely have 3 or more lines. Taken literally, this order may not address a substantial base of MTE customers in Virginia.

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90 *See, e.g.,* Verizon Response to Unresolved Issues, at 104 (Issue I-11).

91 *See* Verizon Response to AT&T Data Request 2-1.

92 *See* Verizon Response to AT&T Data Request 2-3.

93 Order Authorizing Tariff to Take Effect, Case No PUC920026, State Corporation Commission (Aug. 3, 1992). (Emphasis added).

Finally, if Verizon truly did not own or control any on-premises wiring, there would be no basis to express a concern that it would need to "assure it can track and charge AT&T for the use for the subloop element"[94] and there would be no need for language related to maintenance.[95]

Q. HOW ELSE DOES VERIZON LIMIT OPPORTUNITIES TO COMPETE FOR MTE CUSTOMERS?

A. Verizon has no established process supporting CLEC access to on-premises wiring. For example:

1. Verizon has no ability to readily determine ownership status at MTEs[96] nor does it have a process for responding to such requests.[97]
2. Verizon evidently keeps no records relating to whether or not the demarc has been moved at the building owner's request.[98]
3. Verizon has no process for determining the costs of unbundling on-premises wiring.[99]
4. It has no training in place to instruct its employees or agents regarding access to on-premises wiring.[100]
5. Verizon does not routinely inventory its on-premises wiring nor has it performed any validation of the accuracy of any records that it does maintain.[101]
6. It acknowledges it has no practice for uniquely identifying the on-premises wiring with particular cross-connection to its network.[102]

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94 *See* Verizon Response to Unresolved Issues, at 102, Issue III-11.

95 *See* Verizon proposed contract terms, § 11.2.16.7.

96 *See* Verizon Response to AT&T Data Request 2-1.

97 *See* Verizon Response to AT&T Data Request 2-2.

98 *See* Verizon Response to AT&T Data Request 2-4.

99 *See* Verizon Responses to AT&T Data Requests 2-8, 2-9, and 2-10.

100 *See* Verizon Response to AT&T Data Request 2-11.

101 *See* Verizon Response to AT&T Data Request 2-26.

Q. HOW DOES A FACILITIES-BASED COMPETITOR GAIN ACCESS TO AN MTE WHERE THE ILEC DOES NOT OWN OR CONTROL THE ON-PREMISES WIRING?

A. When a competitor (or for that matter the incumbent) brings its facility to an MTE, it will terminate the outside plant at an electrically protected terminating device that provides for cross-connection to on-premises wiring. With such electrical protection, the carrier's network and the on-premise wiring are both protected from risks of lightning and shorts from fallen aerial wires and the like. This terminating device, regardless of the name assigned, permits the cross-connection of the on-premises wiring and the service provider's network occurs using copper pairs. The outside plant is generally wired on a connecting block (terminals) separate and distinct from a connecting block (or terminals) where the on-premise wiring terminates. A separate cross-connecting wire then connects the appropriate terminals of the outside plant pair with the on-premise wiring pair necessary to provide service.

Regardless of whether the on-premises wiring is owned or controlled by the incumbent LEC, or by the building owner, access to it is essential for a facilities based competitor to provide telecommunications services.

Q. WHAT PORTION OF WIRING ON PRIVATE PROPERTY CONSTITUES THE ON-PREMISES WIRING ELEMENT?

A. The "on premises wiring element" is the portion of the facility between the MPOE and the demarcation point. The MPOE is "either the closest practicable point to where the wiring crosses the property line or the closet practicable point

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102 *See* Verizon Initial and Supplemental Response to AT&T Data Request 2-28 as well as its response to AT&T Data Requests 6-30 and 6.31.

to where the wiring enters a building" with the choice between the two locations determined by the telephone company's reasonable and non-discriminatory practices.[103] The demarcation point (or demarc) is the point where ownership and control of the physical wiring changes from that of the telephone company to that of either the building owner or the customer of the telephone company. The demarc, however, is not in a standardized location. Since August 13, 1990, for wiring installed or subjected to major additions or rearrangements, if the telephone company did not elect to place the demarc at the MPOE, the building owner had the option of specifying a single demarc for all customers or individual demarcs for all customers, with the limitation that individual demarcs could not be deeper into a customer unit than about 12 inches from where the wiring enters the premise.[104] Prior to August 13, 1990, the placement of the demarc was subject to the telephone company's reasonable and non-discriminatory practice, provided that individual demarcs could not be deeper into a customer unit than about 12 inches from where the wiring enters the premise.[105]

Q. WHERE MIGHT CARRIERS ROUTINELY GAIN ACCESS TO ON-PREMISE WIRING OR PRIVIATELY OWNED INSIDE WIRE?

A. Wherever the demarc is located, a cross connection device is typically deployed to physically connect the on-premise wiring/inside wiring to the carrier's facility. Frequently there is an MPOE terminal that provides reasonable access.

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103 *See* Part 68.3.

104 *See* Part 68.3(2).

105 *See* Part 68.3(1).

Q. CAN A CARRIER GENERALLY ACCESS THE RETAIL CUSTOMER'S WIRING AT THIS POINT?

A. Yes, because the premise wiring terminals and the outside plant terminals are usually physically separated so access at the MPOE terminal is generally readily available. In many, but not all cases, the terminals upon which the carrier's facilities terminate are protected from unauthorized access in some manner. It is Verizon's policy to secure the network side of the NID whether Verizon owns or controls the inside wiring or not. In fact Verizon's practice for limiting access to its network in MTE's depends on the situation and customer, with access either limited by separate rooms, cabinets or locks.[106] On the other hand, the terminals upon which the building owner's/retail customer's wiring terminates generally are not secured in a way that prohibits competitive supply of inside wire or CLEC access to on-premise wiring. Many incumbent LECs refer to the MPOE terminal as a NID. What the cross-connecting device is called is not critical unless, of course, the use of the term NID is intended to permit the incumbent to levy charges for the NID functionality.

Q. HOW DOES VERIZON REFER TO THE CROSS-CONNECTION DEVICE WHERE IT BELIEVES ACCESS WILL TYPICALLY OCCUR?

A. Verizon, in fact, asserts that AT&T must access on-premises wiring through its NID.[107] Whatever the meaning Verizon elects to assign to the term "NID", in this case, it should not result in AT&T ordering or paying for a NID UNE. Verizon acknowledges that, when the wiring is owned by the building owner,

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106 *See* Verizon responses to AT&T Data Requests 2-16 and 6-29.

107 *See* Verizon response to AT&T Data Request 2-7.

"Verizon Virginia deploys the NID, at which Verizon Virginia terminates its loop."[108] Moreover, despite the fact that Verizon asserts it recovers the costs "through the appropriate retail or wholesale rates",[109] Verizon never says it directly charges the building owner and has yet to answer AT&T's other Data Requests probing the tariff authority for application of such charges. As discussed subsequently in my testimony, if the cross-connection device encompasses the NID UNE functionality, then AT&T will not be using the NID UNE for MTE access (except in very unusual circumstances).

Q. HOW ELSE DOES VERIZON RESTRICT ACCESS TO SUBLOOPS IN WAYS THAT IMPACT MTE ACCESS?

A. Verizon maintains that subloop unbundling should be governed by collocation provisions or the submissions of Bona Fide Requests.[110] Although § 51.319(a)(2)(D) of the Commission's Rules do envision subloop access to be generally subject to collocation rules, those rules are not exclusively applicable and are especially inapplicable in the narrow sense of on-premises wiring. Verizon, however, sees no alternative for access to UNEs other than through collocation arrangements.[111]

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108 *See* Verizon response to AT&T Data Request 2-12.

109 *See* Verizon response to AT&T Data Request 2-12 a.

110 *See* Verizon Response to Unresolved Issues, at 86, Issue III-8. *See also* Verizon-VA's Supplemental Issues List, Issue 161, page 73, Case No. PUC 000282, Nov. 14, 2000.

111 *See* Verizon response to AT&T Data Request 3-2.

Q. WHY ARE COLLOCATION CONSIDERATIONS INAPPLICABLE IN THE NARROW SENSE OF MTE ACCESS?

A. Section 51.5 of the Rules defines collocation as an offering that permits a CLEC to place its qualifying equipment "within or upon an incumbent LEC's premises." That same section of the Rules goes on to say: "Premises refers to an incumbent LEC's central office and serving wire centers, as well as all buildings or similar structures owned or leased by an incumbent LEC that houses its network facilities, and all structures that house incumbent LEC facilities on public rights-of-way, including but not limited to vaults containing loop concentrators or similar structures." None of these previous provisions are even remotely applicable to the MTE. This conclusion is further validated by the fact that the building owner generally receives no compensation for the spaces employed by the incumbent LEC cross-connection device.[112]

Q. WHAT ARE SOME OF THE OTHER WAYS THAT VERIZON MAY INHIBIT AT&T'S ABILITY TO SERVE CUSTOMERS IN VIRGINIA MTES?

A. Among the provisions that I believe both inhibit competition and are contrary to recent FCC rulings, are the following:

(1) Verizon asserts that under its limited interpretation of what is necessary to provide access to on-premise wiring, it can require CLEC access be only thorough the cross-connection terminal deployed by Verizon.[113]

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112 *See* Verizon Response to AT&T Data Request 2-13.

113 *See, e.g.,* Verizon Response to AT&T Data Request 2-7: "Verizon Virginia does take the position that the CLEC must access on-premises wiring through the customer side of the NID." It is interesting to note that Verizon refused to respond to AT&T Discovery Request 2-6, regarding whether or not Verizon asserted sole responsibility to determine where technically feasible points of interconnection existed, claiming "that this request